

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

IN RE: ETHICON, INC.,  
PELVIC REPAIR SYSTEM  
PRODUCTS LIABILITY LITIGATION

MDL NO. 2327

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THIS DOCUMENT APPLIES TO:  
ETHICON WAVE 8 CASES LISTED  
IN EXHIBIT A OF DEFENSE  
NOTICE OF ADOPTION (Dkt. 6907)

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**NOTICE OF ADOPTION OF PRIOR DAUBERT  
RESPONSE OF DR. JIMMY MAYS**

Plaintiffs hereby adopt and incorporate by reference Plaintiffs' Memorandum in Opposition to Defendant's Motion to Exclude the Opinions and Testimony of Plaintiffs' Expert, Jimmy M. Mays, Ph.D. from Boston Scientific Wave 3. *See* ECF No. 4972. Plaintiffs note that Dr. Mays served an amended report for Wave 4, dated June 3, 2018, and BSC deposed Dr. Mays on the new report on August 16, 2018. Dr. Mays' new report, and the deposition taken by BSC, both post-date the January 11, 2018 date of BSC's adopted *Daubert* motion and reply. *See* Report of Jimmy M. Mays, Ph.D (Ex. "A"); *see also* Mays Dep. (Ex. "B"). Accordingly, BSC's adopted motion and memorandum do not address Dr. Mays' current report, and specifically fails to address his reliance on peer-reviewed, published literature from the updated report, including the addition of the publication of Dr. Mays' testing of BSC products in the peer-reviewed journal *Biomaterials*. *See* Ex. "A", reference 25. Although BSC's adopted motion does not address Dr. Mays' Wave 4 report, Plaintiffs respectfully request that the Court deny Defendant's motion for the reasons expressed in the Wave 3 response briefing. Further, Plaintiffs respectfully request the Court permit Dr. Mays to testify regarding his uncontested Wave 4 report.

DATED: October 25, 2018

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that on October 25, 2018 I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

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